

REMARKS

Claims 1, 3, 5, 7, 9, 11, 13 and 15 are pending in this application. Claims 2, 4, 6, 8, 10, 12, 14 and 16 have been canceled. No claims have been added or amended. Applicants submit the following arguments in support of the patentability of the pending claims.

Rejection under 35 U.S.C. § 102(e)

The Examiner rejects claims 1-16 as anticipated by Iseki et al., U.S. Patent 6,288,193 (Iseki '193). Applicants traverse the rejection and respectfully request the withdrawal thereof.

The present invention is directed to a copolymer of ethylene and a vinyl compound (I) as defined in claim 1. The copolymer of the present invention has substantially no crystallinity, meaning that the copolymer of the present invention is amorphous.

Iseki '193 discloses an ethylene-based crystalline polymer composed of ethylene based monomer and a vinyl compound. The Iseki '193 ethylene based monomer has a melting temperature of 119°C or lower. See claim 1 of Iseki '193. This melting temperature characteristic accounts for the crystallinity of the Iseki '193 polymer.

In contrast to the cited art, the content of the polymerization unit derived from the vinyl compound A in the present invention is much lower than the content of the polymerization unit derived from the vinyl compound (I) in the polymer of the Iseki '193 patent. This higher content in the cited art produces a crystalline polymer.

Moreover, the polymerization catalyst that produces the copolymer of the present invention is neither disclosed nor suggested by Iseki '193. In fact, the copolymer of the present invention cannot be produced from the catalyst disclosed in Iseki '193.

Furthermore, one of ordinary skill in the art understands the significant differences between amorphous compounds and crystalline compounds. For example, transparency, melting properties and other thermal properties greatly differ between crystalline compounds and amorphous compounds.

Applicants submit that a crystalline form of a compound is patentably distinct from an amorphous form of a compound. In Glaxo Group, Ltd. v. Ranbaxy Pharmaceuticals, Inc., 59 USPQ2d 1950, 1954 (Fed. Cir. 2001), the court found that an amorphous compound is distinguished from the crystalline compound. As such, Applicants

submit that Iseki '193 does not anticipate the present invention and the rejection should be withdrawn.

Conclusion

As Applicants have addressed and overcome the anticipation rejection in the Office Action, Applicants respectfully request that the rejection be withdrawn and that the claims be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees


required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 

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Attachment: Version with Markings to Show Changes Made

(Rev. 02/20/02)

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 2, 4, 6, 8, 10, 12, 14 and 16 have been canceled.